



Town of Newburgh
Town Council Meeting
Wednesday, August 22, 2018

CALL TO ORDER

Council President Leanna K. Hughes called the Regular Session to order at 5:37pm.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Town Council.

REMEMBRANCES

A moment of silence was observed for our Firefighters, Police Officer, First Responders and our Troops.

ROLL CALL

Those present at the meeting:

District I – William F. Kavanaugh

District II – Leanna K. Hughes

District III – Stacie M. Krieger

District IV – Anne Rust Aurand

Clerk-Treasurer – Jon Lybarger

Town Manager – Christy Powell

Town Attorney – Christopher Wischer

Those absent from the meeting:

Council-At-Large – Tonya R. McGuire

APPROVAL OF MINUTES

A motion was made by Anne Rust Aurand to approve the August 8, 2018 minutes.

Stacie M. Krieger seconded the motion.

No Discussion.

Vote: Ayes 4; Nays 0

SCHEDULED REQUESTS AND APPEARANCES

None.

COMMENTS BY CITIZENS

Randy from Randy's Tree Service – 216 Water Street

Randy asked the Town Council for Water Street to be closed for three (3) to four (4) hours to take down a tree at 216 Water Street. The tree in the front yard is dying and needs to be removed. The project is slated to begin on September 5, 2018 and will begin around 8:30am. The driving lane of Water Street will be closed but the foot traffic lane will remain open.

William F. Kavanaugh made a motion to allow Water Street between Market and Madison to be closed to remove the tree at 216 Water Street.

Stacie M. Krieger seconded the motion.

No Discussion.

Vote: Ayes 4; Nays 0

Major Scully informed Randy to call the Police Department to make arrangements for the road closure. Christy Powell asked Major Scully if they would handle the notifications. Major Scully stated that the Police Department will handle the notifications.

NEW BUSINESS

SEWER

Sharon and State Street SS Rehab and Drainage Improvements

- ***Contract between Owner and Contractor***

David Hynes stated that this is a contract between the Town of Newburgh and BBI in the amount of five hundred thirty nine thousand five hundred thirty nine dollars

(\$539,539.00) and it is engineering's recommendation to enter into the contract.

MOTION by William F. Kavanaugh to approve the Sharon and State Street Sanitary Sewer Rehab and Drainage Improvements Contract between Owner and Contractor per engineering's recommendation.

SECONDED by Anne Rust Aurand.

DISCUSSION: NONE

MOTION carried: ayes 4; nays 0

- ***Notice to Proceed***

David Hynes asked for legal to give a quick update. Chris Wischer explained that they are still waiting on one easement. Mr. Wischer and Mr. Hynes both met with the property owner to address some of the concerns she had in regard to trees, fencing and drainage. Mr. Wischer stated that he believes he has addressed all of the concerns and sent her a letter yesterday (Tuesday, August 21, 2018). Mr. Hynes stated that we need to approve the Notice to Proceed this evening or risk losing the contractor. Mr. Hynes stated that the effective date is August 22, 2018 with the work date starting on September 20, 2018. If the Notice to Proceed is not approved the contractor could claim damages.

William F. Kavanaugh stated that this is a much needed project and must be done. Mr. Kavanaugh stated that not only do they need to address sewer and drainage pipe issues they have a new business being built that depends on this project.

Question was asked what would happen if the Notice to Proceed was approved but the easement was not obtained. Mr. Wischer stated that the contractor could claim damages and we would lose the contractor and have to start the process all over again.

MOTION by William F. Kavanaugh to approve the Sharon and State Street Sanitary Sewer Rehab and Drainage Improvements Notice to Proceed per legal and engineering recommendations.

SECONDED by Anne Rust Aurand.

DISCUSSION: Chris Wischer stated that all of these properties are donating their easements and that there is no monetary reimbursement. Mr. Wischer stated that if the

contractor was to disturb a tree or anything else on someone's property it would be replaced or fixed.

MOTION carried: ayes 4; nays 0

Deaconess LS and FM Rehabilitation Project

David Hynes stated that this project has taken a very long time but they are almost to the end. Mr. Hynes explained that the top of the lift station was the wrong top so a new top has been ordered. Once the new top is in it will take a week to a week and a half to complete the project. Mr. Hynes stated that the payment request is one hundred eighty thousand four hundred seventeen dollars (\$180,417.00) with five percent (5%) retained of nine thousand twenty dollars and eighty cents (\$9,020.80) which leaves one hundred seventy one three hundred ninety six dollars and fifteen cents (\$171,396.15) to be paid. Mr. Hynes stated that is engineering's recommendation to pay the \$171,396.15.

MOTION: William F. Kavanaugh made a motion to pay \$171,396.15 for the Deaconess LS and FM Rehabilitation Project per engineering's recommendation.

SECONDED by Anne Rust Aurand.

DISCUSSION: None.

MOTION carried: ayes 4; nays 0

515 St. Catherine Ct. SS Relocation Project

- ***Certificate of Substantial Completion***

David Hynes recommended that Town Council approves the Certificate of Substantial Completion for 515 St. Catherine Ct. Sanitary Sewer Relocation Project that was completed on August 3, 2018 and comes with a one (1) year warranty

MOTION: William F. Kavanaugh made a motion to approve the Certificate of Substantial Completion for 515 St. Catherine Ct. Sanitary Sewer Relocation Project per engineering recommendation.

SECONDED by Leanna K. Hughes.

DISCUSSION: None

MOTION carried: ayes 4; nays 0

- ***Pay App #02 to Deig Bros Lumber and Construction***

David Hynes recommended that the Pay App #02 to Deig Bros Lumber and Construction be paid in the amount of forty two thousand seven hundred eight three dollars and ten cents (\$42,783.10) which is forty five thousand thirty four dollars and eight cents (\$45,034.80) with five percent (5%) already retained of two thousand two hundred fifty one dollars and seventy four cents (\$2,251.74).

MOTION: William F. Kavanaugh made a motion to approve the Pay App #02 to Deig Bros Lumber and Construction in the amount of \$42,783.10 for the 515 St. Catherine Ct. Sanitary Sewer Relocation Project per engineering recommendation.

SECONDED by Anne Rust Aurand.

DISCUSSION: None.

MOTION carried: ayes 4; nays 0

Driftwood Sanitary Sewer Extension – Final Acceptance of SS

David Hynes stated that everything has been completed on the punch list and he recommends accepting the sewer for maintenance with an estimated cost of two hundred

seventy thousand three hundred eight six dollars and sixty cents (\$270,386.60) for maintenance.

MOTION: William F. Kavanaugh made a motion to approve the Driftwood Sanitary Sewer Extension Final Acceptance of the Sanitary Sewers per engineering's recommendation.

SECONDED by Anne Rust Aurand.

DISCUSSION: None.

MOTION carried: ayes 4; nays 0

Forest Park Drainage Issues

William F. Kavanaugh asked Town Council if they could discuss the drainage issues at Forest Park since Diane Reese was in attendance. Mr. Kavanaugh stated that eleven (11) years ago a bond was issued to fix some of the issues out at Forest Park but it did not fix all of the issues. Mr. Kavanaugh stated that Ms. Reese and her neighbor have flooding issues and believe that the lake on the property above theirs, owned by CC Wade Subdivision, is causing them. Chris Wischer stated that the CC Wade Lake is not causing the issue and with or without the lake the drainage problem would be there. Mr. Kavanaugh stated that the real issue that Town Council needs to address is using taxpayer's money to fix private property. Mr. Kavanaugh stated that it cannot be done but that these residents have real concerns.

Christy Powell stated that she has reached out to the owners that are on the lake and asked them to have the lake inspected but that it is a civil matter.

Mr. Wischer stated that the issue at Forest Park has been on the books for a long time and that it is a systemic problem. When you fix one issue, it causes another issue down the line. Mr. Wischer stated the real fix is to increase the pipe size. Mr. Wischer stated that they have reached out to Umbaugh to see about issuing a bond to fix this issue. The bond could either be a Storm Water bond or a Tax bond.

Mr. Wischer also stated that they have looked into the idea of partnering with the residents and having the residents pay for part of the fix while the Town pays for the other part. Mr. Wischer stated that a program like that would need to be created, approved by the Storm Water Board and then by Town Council.

David Hynes stated that in 1995 they did a drainage project at Forest Park because three (3) homes were flooding. Mr. Hynes stated that the ditch was not big enough and Deig Brothers did the work. Mr. Hynes stated that twenty (20) years later the ditch is overgrown and causing problems. Mr. Hynes stated that the upper reaches of the ditch were never addressed.

Mr. Hynes stated that there are at least a dozen homes affected in the main area but if you look at the whole ditch it could be three (3) dozen or more homes. Chris Wischer stated that Mr. Hynes will need to reassess the ditch at Forest Park, refresh the study that was done and that Town Council could direct him to do so.

Mr. Kavanaugh stated that he would like this to follow protocol and would like for the Storm Water Board to make a recommendation to Town Council. Mr. Kavanaugh asked Mrs. Powell to schedule a special Storm Water meeting before the next Town Council meeting.

Anne Rust Aurand asked about the Storm Water Board having a quorum. Mr. Kavanaugh stated that it has always been an issue in the past and Dana Grace has also resigned. Mr. Kavanaugh stated that Mr. Grace gave a suggestion for a new member but stated that if anyone knows someone who is interested and has the background to send him their name.

Leanna K. Hughes asked what the cost of the bond would be. Chris Wischer stated that they have two (2) options: a bond backed by taxes or a bond backed by Storm Water Fees. Mr. Wischer and Town Council discussed hypothetical bond issues.

Mr. Wischer stated that it is important to think about how you will want to do the bond. A bond backed by Storm Water Fees means everyone is affected the same amount where a bond backed by taxes means people are only going to be affected based on their house value.

Mr. Kavanaugh stated that we really need to think about a bond and we need to think about the big picture in the Town. Mr. Kavanaugh stated that the Fire Department needs air packs, we need to build a new pool and we have storm water issues all around Town.

Mr. Wischer stated that fire and pool would be issued under a general bond where a storm water bond would be separate.

Ms. Reese stated that the Town just did a one hundred eighty thousand dollar (\$180,000.00) project across the street and that it has affected her house all the way over to houses on the next street. Ms. Reese also stated that the lakes around Forest Park affect all the properties. Ms. Reese stated that when it rains everywhere is flooded and even the streets are flooded.

Mr. Hynes stated that when Forest Park was built in the 1960's and the 1970's there was a large drainage basin that was never addressed.

Mr. Wischer stated that the project that Ms. Reese is referring to was to fix a manhole that was eroding.

Mr. Kavanaugh stated that lake or no lake, there would still be drainage issues and that lakes are for retention.

Mr. Kavanaugh stated that he really thinks it is important to get the Storm Water Board together and to also get a new member. Christy Powell stated that the Town could share on Facebook that the Storm Water Board is looking for a new member.

UNFINISHED BUSINESS

- Food Trucks *Tabled June 27, 2018 pending creation of regulations within the existing peddler's permit.*

Chris Wischer asked that this issue stayed tabled for now.

STAFF REPORTS

Zoning Administrator

Christy Powell stated that since the last meeting there have been five (5) projects totaling thirty one thousand two hundred ninety three dollars and thirty cents (\$31,293.30) and for those five (5) projects, five (5) permits have been given with a total of two hundred sixty dollars (\$260.00) collected in fees.

Clerk-Treasurer

Air Cascade System Yearly Agreement

Jon Lybarger stated that approval is needed for the Air Cascade System yearly agreement for the Fire Department. Mr. Lybarger stated that the cost for the agreement is one thousand two hundred eighty dollars and will go through August 31, 2019.

MOTION: William F. Kavanaugh made a motion to approve the Air Cascade System yearly agreement.

SECONDED by Anne Rust Aurand

DISCUSSION: Jon Lybarger stated that he will need Town Council President to sign.

MOTION carried: ayes 4; nays 0

News Media

Mr. Lybarger stated that Brittany Harry at 14News is no longer the journalist for our area and that it is now Jeff Pearson.

Park Pals Fund

Mr. Lybarger also stated that Park Pals is now officially a 501(3)c and would like their funds distributed to them. Mr. Lybarger stated that the Park Pals account has one thousand nine hundred twelve dollars and twenty cents (\$1,912.20) in it. William F. Kavanaugh asked if it is legal for the Town to turn over funds. Chris Wischer stated that it is legal since we were holding the funds in trust.

MOTION: Stacie M. Krieger made a motion to transfer the funds within the Park Pals account over to Park Pals.

SECONDED by Anne Rust Aurand

DISCUSSION: None.

MOTION carried: ayes 4; nays 0

Town Attorney

No Report.

Town Engineer

No Report.

Town Manager

Zion Church Car Show

Christy Powell stated that Pastor Kennedy has asked that there be road closures for their yearly car show on September 8, 2018. Mrs. Powell stated they will need First Street between State and Monroe Street closed and Monroe Street between First and Second Street.

MOTION: William F. Kavanaugh made a motion to approve the street closures for the Zion Church Car Show.

SECONDED by Anne Rust Aurand

DISCUSSION: Leanna K. Hughes asked if they requested Town Council to have a presence.

Mrs. Powell stated that he did not but that she will ask him. Mr. Kavanaugh stated that they use to vote.

MOTION carried: ayes 4; nays 0

Tree Canopy

Christy Powell stated that she met with Vectren and Larry Caplan out at the Tree Canopy to make sure all of the tags were still in place and still accurate. Vectren will be participating in the cost to remove the trees and trim up the ones that need maintenance which is five thousand five hundred dollars (\$5,500.00). Leanna K. Hughes stated that she thought Vectren was going to remove the dead trees and that the Town would take care of the maintenance of the others. Mrs. Powell stated that after conversations with Vectren, Randy's Tree Service and Larry Caplan it is better to do it all at once instead of having two (2) separate road closures and that the cost could not go down that much.

MOTION: Stacie M. Krieger made a motion to schedule the removal and maintenance of the trees and to start the process of getting reimbursed from Vectren.

SECONDED by William F. Kavanaugh

DISCUSSION: None.

MOTION carried: ayes 4; nays 0

Rope Rescue Class

Christy Powell stated that the Newburgh Volunteer Fire Department will be participating in a Rope Rescue Class this Saturday from 8am to 5pm. Mrs. Powell stated that they are looking for approval to use the historic red bridge on the train to rappel from and to practice pulling up.

Chief Paul Campbell stated that they have three (3) volunteer firefighters that will be participating and that the state is paying for the class. Chief Campbell stated that classes like this help them with obtaining funding and grants.

Leanna Hughes asked if the ropes would cause damage to the bridge. Chief Campbell stated that it would not; that they will be putting material down to protect the ropes and the bridge. Chief Campbell stated that they will also only be closing on side of the bridge so traffic can still get through.

MOTION: Leanna K. Hughes made a motion to approve the use of the historic red bridge on the Rivertown Trail for the Rope Rescue Class.

SECONDED by Anne Rust Aurand

DISCUSSION: None.

MOTION carried: ayes 4; nays 0

COMMISSION/COMMITTEE REPORTS

COMMISSION

- *Board of Aviation Commissioners*
No Report

- *Board of Zoning Appeals*
Board of Zoning Appeals will meet on August 27, 2018 and will be discussing a reduce lot size at 110 East Gray Street and a rear yard setback for a fence at 212 West Water Street.

- *Fire*
Runs

Chief Paul Campbell stated that for July they had forty seven (47) runs. Twelve (12) were Town Runs, thirty (30) were in the Township, four (4) were public relations including the fireworks and one (1) was a mutual aid.

Chief Campbell stated that they are on pace to hit five hundred (500) runs which will be the most ever done. Usually they are around four hundred twenty five to four hundred fifty (425/450) so they are having a very busy year.

Members

Chief Campbell stated that they currently have thirty five (35) members with five (5) of those members being on probation (less than one year). Chief Campbell stated that they have applications to review and that they also have three (3) cadets that are in high school that meet on Monday nights and will be looking to increase those numbers.

- *Historic Preservation*
No Report.

- *Park*
Red Parks Binder

Stacie M. Krieger sent around a red binder that Mary Ann Wilsbacher made up of all the issues around the parks. Maintenance issues, things that need to be replaced, landscaping, and other issues she thinks needs to be addressed. The red binder has pictures and explanations on each picture. Leanna K. Hughes stated that she has been going to Parks Board meetings and that none of these issues seem new. Mrs. Hughes stated that they are the same issues that Parks have been dealing with for a while.

William F. Kavanaugh stated that the Street Department and Maintenance Department are the two departments that handle this but time and money are always a factor.

No Smoking in Parks

Ms. Krieger showed the Town Council the signs that were made up that will be placed in all seven (7) parks that state that the parks are tobacco and e-cigarette free.

Fortress of Fun 20th Anniversary Celebration

Ms. Krieger stated that Council should have received an invitation from Park Pals to join them on September 16, 2018 from 1-3pm to celebrate the 20th anniversary of the Fortress of Fun.

Goats

Ms. Hughes asked about goats up at Indian Hill Overlook Park. Christy Powell stated that we have received two (2) quotes and that we are going to look into the human element to compare prices. Ms. Krieger stated that the two (2) goat quotes were not apples to apples and that seeing the cost of having a company come in and take care of the issue will help them make a decision.

Mr. Kavanaugh stated that everyone has grapevine and that it is not an easy fix. Mrs. Powell also reminded everyone that the goats will not eat the grapevine. They will eat the vegetation that will allow access to the grapevine but that it will still need to be cut by hand at the root. That the goats will not actually kill the grapevine but just allow access to the crews and volunteers to get to the base of the vine.

- *Plan*
No Report.

- *Police*
The Burgh

Major Scully stated that The Burgh, an evening on the river, will take place on September 29th and is a community event for the Newburgh Police Department and the Volunteer Fire Department. After their event, Historic Newburgh, Inc. will be showing a movie that evening.

Drug Bust

The Newburgh Police Department worked with the Sheriff's Office and participated in a county wide drug round up which lead to fifteen (15) arrests.

Firearms Training

The Police Department will have their firearms training soon.

Police Dog Certifications

Police Dogs Alex and Lux have completed their certifications.

Numbers

The numbers for July are:

- 170 custodial arrests
 - 1,073 citations or warnings
 - 7 CAD runs
- *Site Review Committee*
No Report.

- *Storm Water*

Met in August but did not have a quorum.

- *Street*

Anne Rust Aurand stated that the Street Department has been busy with cleaning walkways and Town parking lots, removing the front porch from the red brick building and removing the shed at the recycling center, fixing potholes, fixing washouts on the riverbank, fixing a basin/gate at 223 Hillcrest, adding gravel to an alley, fixing a sink hole at 205 Locust Street, spraying the riverbank, and cutting low hanging limbs for school buses to just name a few things.

Mrs. Aurand also stated that she feels a lot of the issues that were brought up in the red parks binder could have been addressed this year if the Street Department was not mowing. Mrs. Aurand knows that financially we starting having Street Department mow again instead of hiring it out but that also leaves them with less time to do other things that need to be done.

- *Utility*

No Motions. Next meeting is September 5, 2018.

STANDING COMMITTEES

- *Finance*

Leanna K. Hughes stated that the Finance Committee met before the Town Council meeting this evening and that Jon Lybarger is busy putting together the budget figures for the 2019 proposal. Mr. Lybarger stated that they have to have the numbers uploaded to Gateway by September 29, 2018 and no longer have to publish them in the paper. Mr. Lybarger would like to get with the Department Heads one more time to review their budgets.

- *Personnel*

No Meeting. Christy Powell stated that employee evaluations are under way and they will need to meet soon to talk about 2019.

SPECIAL BOARDS/COMMITTEE REPORTS

- *Sidewalk*

David Hynes stated that Washington Street will be done by the end of the week.

- *Arts Commission*

Leanna K. Hughes stated that they met on Monday, August 20th. The Amp up the Amphitheater event is going to be on September 7, 2018 at the proposed amphitheater site. There will be entertainment and presentations from 3pm-8pm.

Mrs. Hughes stated that they are only forty five thousand dollars (\$45,000.00) away from their goal to be able to apply for a matching grant which means they have raised two hundred six thousand dollars (\$206,000.00) so far.

- *Rivertown Trail*
No Report.

AD HOC COMMITTEES

- *Sign Committee*
No Report.
- *Residential Improvement Recognition*
No Report.
- *Parking Committee*
A meeting was held on August 13, 2018 and William F. Kavanaugh stated that striping needs to be scheduled at the recycling center and they are waiting to hear back from AT&T on their parking lot.
- *Grown and Progress Committee*
No Report.
- *Trash*
No Report.

MISCELLANEOUS BUSINESS

Fall 2018 Newsletter

Andrea Balboni gave Town Council a copy of the newsletter. The last digital copy they received did not have the Town Manager report, the email database article, or the section that talked about plastics. Mrs. Balboni explained they have received calls about certain recycle facilities no longer accepting certain plastics because China is no longer accepting certain plastics. Advanced Disposal told Mrs. Balboni that the facility that they use is still taking all plastics, so Mrs. Balboni put that information in the newsletter. Mrs. Balboni also stated that she talked to Historic Newburgh, Inc. about which email site they use and set up an account with Mail Chimp. This will allow Mrs. Balboni to collect email address and set up groups so that residents can be sent emails about road closures or events going on in Town. This will also allow for more newsletters to go out in the future.

Car For Sale at Lock and Dam Park

Anne Rust Aurand stated that a car has been sitting in the proposed amphitheater spot for days advertising it is for sale. Mrs. Aurand stated that there is a tow tag on it now and Major Scully stated that they will look into it.

Bee Hive Fence Agreement

It was asked if the fence has been erected around the bee hives on Third and Monroe Street. Christy Powell stated that she will look into it.

Fiddler Festival

Anne Rust Aurand stated that this weekend is the Fiddler Festival.

Friday from 5pm-9pm

Saturday from 11am-9pm

APPROVAL OF CLAIMS

The following amounts were presented to Town Council for their consideration for payment plus sewer adjustments:

Civil Town: \$184,478.57

Sewer: \$829,109.96

SRF: \$20,465.74

MOTION: William F. Kavanaugh made a motion to approve all claims properly signed to be paid.

SECONDED by Stacie M. Krieger

DISCUSSION: None

MOTION carried: ayes 4; nays 0

ADJORNMENT


MOTION: Leanna K. Hughes made a motion to adjourn.

SECONDED by Stacie M. Krieger

DISCUSSION: None

MOTION carried: ayes 4; nays 0

Approved this 12 day of September 2018



Newburgh Town Council President

Attest: 
